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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/568,781	02/21/2006	Istvan Lindmayer	3347-0105PUS1	5251
2292 7590 05/04/2009 BIRCH STEWART KOLASCH & BIRCH PO BOX 747 FALLS CHURCH, VA 22040-0747				
EXAMINER VU, QUYNH-NHU HOANG				
ART UNIT		PAPER NUMBER		
3763				
NOTIFICATION DATE		DELIVERY MODE		
05/04/2009		ELECTRONIC		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

mailroom@bskb.com

Office Action Summary

Application No.

10/568,781

Applicant(s)

LINDMAYER, ISTVAN

Examiner

QUYNH-NHU H. VU

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 09 January 2009.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 15-28 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 15-28 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/CDC)
- Paper No(s)/Mail Date _____

- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 1/9/09 has been entered.

Claims 15-28 are present for examination.

Claims 1-14 are cancelled.

Specification

The amendments to the Specification filed by Applicant on 1/9/09 are acknowledge and accepted.

Drawings

The drawing objections have been withdrawn in view of the amendments filed on 1/9/09

Claim Rejections - 35 USC § 112

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claim 15 is rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. The limitation "the spacer transfers without impact the stored energy from the springs of the at least one start unit via the lock mechanism to contents of the agent cartridge upon release of the locking mechanism" of claim 1 is mis-descriptive. According to Fig. 3, when the locking mechanism 4 released, the spacer 33 and a spring of the at least start unit 31 are both extended. Therefore, the spacer 33 must be transferred with impact the stored energy in some degrees.

For examining purposes, Examiner assumes that the spacer transfers with impact the stored energy from the spring in certain level.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 15-28 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lindmayer et al. (US 4,623,332) in view of Haar et al. (US 2001/0031945).

Lindmayer discloses a needle-less injection device including a lower part 58 receiving an agent cartridge and an upper part 2 and 3 providing the energy needed for the injection, the upper part containing energy store units (spring), including at least one start unit 44 and at least one supplementary unit 41 capable of elastic form-change, the device further comprising:

a lock mechanism/latch mechanism maintaining tension of the energy store units and a release mechanism for releasing the lock mechanism (col. 4, line 11+);

a tubular section 6 of the lower part provided with an external thread, extending into the upper part, the external thread coupling with an internal thread provided in the upper part, wherein the lower part is attached to the upper part in a revolving manner, and is movable telescopically within the upper part for producing a tension state of the energy store units

and a spacer 47 moveable independently of the at least on supplementary unit within the upper part, the spacer maintaining a uniform longitudinal space between the at least one start unit and the lock mechanism from the time the tension state of the energy store units is produced until the lock mechanism is released wherein:

the at least one start unit is capable of storing 60-90% of the energy needed for total discharge of when incurring a reversible elastic distortion of no more than 25% of an internal length of the agent

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cartridge; and wherein the at least one start unit includes a bundle springs fitted inside the device in a separate case;

as best as understood, the spacer transfers and impact the stored energy from the springs of the at least one start unit via the lock mechanism to contents of the agent cartridge upon release of the locking mechanism.

Lindmayer does not disclose the start unit is spring unit but does not discloses made of a polyurethane material.

Haar states that rubber or plastic springs store a large quantity of energy per unit mass compared to steel springs. The cost and performance of such rubber or plastic is attractive, provided that along term stability of their properties and low load loss with time is ensured.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the polyurethane spring, as taught by Haar, for providing long term stability and low load loss with time ensured. Furthermore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the spring made of rubber or plastic (for example: polyurethane material), since it has been held to be within the general skill of a worker in the art to select a known material on the basis of its suitability for the intended use as a matter of obvious design choice.

Response to Arguments

Applicant's arguments with respect to claims 15-28 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Quynh-Nhu H. Vu whose telephone number is 571-272-3228. The examiner can normally be reached on 6:00 am to 3:00 pm.

The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Nicholas D Lucchesi/
Supervisory Patent Examiner, Art Unit 3763

Quynh-Nhu H. Vu
Examiner
Art Unit 3763